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09/608,028	06/30/2000	Kartik Raghavan	MS1-498US	9044

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EXAMINER	
COLIN, CARL G	

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/608,028	RAGHAVAN ET AL.	
	Examiner	Art Unit	
	Carl Colin	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2006* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *4/29/2004* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. In response to communications filed on 2/14/2006, applicant amends claims 1, 13, 17, 21, 24, 26, 27, 32, and 34. The following claims 1-36 are presented for examination.

2. In response to communications filed on 2/14/2006, the 112 rejection of claims 1,4, 5, and 13, has been withdrawn in view of the amendment.

3. In response to communications filed on 2/14/2006, Applicant's arguments/remarks have been fully considered but they are not persuasive. Applicant states that Examiner indicated that the claim amendments in claim 1 distinguish over the cited prior art. Examiner respectfully disagrees (see Examiner's interview summary). The independent claims have been amended to recite installing an application that was not pre-installed on the computer system. Li discloses upon receiving identifier, automatically download new configuration file or software applications in order to configure the Internet access device (see column 15, lines 1-25). With respect to the 103 rejection of claims 1-36, Applicant generally alleges that the claims are allowable in vie of the discussion with the Examiner. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

It is also noted that Applicant's failure to challenge the Examiner's official notice in the previous Office Action is taken by the office to be admitted prior art. See MPEP § 2144.03.

Upon further consideration, Applicant has not overcome the prior art and claims 1-36 remain rejected in view of the prior art. To further expedite the prosecution, Applicant is provided with additional prior art such as US Patent 6,094,531 to Allison et al, who teaches automatically installing new application such as an operating system application on a computing system/device that was not pre-installed on the computer system upon receiving the identifier of the computing system/device.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.1 **Claims 1-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,809,287 to **Stupek, Jr. et al** in view of US Patent 6,012,088 to **Li et al**.

4.2 **As per claims 1, 2, 3, 11, and 25, Stupek, Jr. et al** substantially discloses a method and storage medium for executing instructions comprising: receiving an identifier associated with a computing system and/or computing system user (column 7, line 12-34) and discloses receiving identifier (logging information) associated with a computing system and/or computing system user (column 3, lines 53-67), assessing computing system resources available on the computing system to develop and assessment, (column 3, lines 53-67 and column 9, lines 1–11); utilizing the assessment to identify new resources, including at least one of a new application, a software update, configuration information, personal information, a configuration setting, or a personal setting to enhance the operational capability of the computing systems wherein the new application is not preinstalled on the computing system (see column 12, line 60 through column 13, line 35). Although **Stupek, Jr. et al** discloses various embodiments with respect to upgrading resources and applications such as Novell applications (column 9, line 30 through column 10). The new upgraded resources and new versions of application could be interpreted as application not preinstalled. **Stupek, Jr. et al** discloses receiving the new application and automatically modifying computing system resources based, at least in part, on the assessment of the computing system resources by installing the application (see column 12, line 60 through column 13, line 35). **Stupek, Jr. et al** also discloses in another embodiment that the same process can also be used to analyze the availability for upgrades and generates upgrade jobs for

individual clients connected to the server; client resources may be upgraded automatically through the upgrade installer of the server (see column 9, lines 1–11; see also column 12, line 60 through column 13, line 35). **Stupek, Jr. et al** discloses a database that contains a profile associated with computer systems and dependency information of whether upgrades are authorized to user and whether upgrades apply to a server and whether or not upgrades are (missing) not stored in memory (see column 6, line 19 through column 7, line 47). **Stupek, Jr. et al** does not provide details about the use of identifier using online services as it is well known in the art that in order to obtain configuration and software upgrade from an online service the computer system or computer user has to provide information (identifier) to the server or provider so that the server/provider knows whether the service is authorized and can identify the host receiving the service. **Li et al,** in an analogous art, discloses a computer device using automatic configuration process to automatically configure itself online by simply sending a valid registration ID and telephone number and further discloses a system administration module that provides self-maintenance via an agent automated backups of any user data to any workstation, automated software management for software updates and automated log and audit management (column 8, line 35 through column 9, line 17 and column 10, lines 25-65). **Li et al** further discloses upon receiving identifier, automatically download new configuration file or software applications that meets the recitation of new application not pre-installed in order to configure the Internet access device (see column 15, lines 1-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of **Stupek, Jr. et al** to automatically configuring a device upon receiving a valid identifier as taught by **Li et al** in order to authenticate the computing system and computing

system user, avoid human errors, and save time (see column 15, lines 1-15 and column 10, lines 25-65). One skilled in the art would have been motivated to do so because it provides automatic configuration upon verification or authentication of the computing system and computing system user and enables a very quick, simple, and error-proof of invoking an automatic configuration process that would avoid human errors and save time, for example (see column 15, lines 1-15 column 10, lines 25-65) as suggested by **Li et al**.

As per claims 4, 9, and 10, the combination of **Stupek, Jr. et al** and **Li et al** discloses the claimed method of claim 1. **Stupek, Jr. et al** further discloses upgrading can be performed by receiving identifier from logging to a server or information from memory as discussed in claim 1, and the upgrade can be performed on a network server as well as a network client (column 2, lines 5-25 column 3, lines 18-30). **Li et al** discloses the limitation of a server receiving identifier associated with a computing system and/or computing system user from an access device wherein the access device (communications device) may use different type of communication line from the computing system and/or computing system user that meets the recitation of receiving an identifier associated with a computing system and/or computing system user from a computing system and/or a communications device not coupled directly to the computing system, for example (see column 14, line 50 through column 15, line 15; column 8, line 35 through column 9, line 17). These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claims 5, 8, 35-36, the combination of **Stupek, Jr. et al** and **Li et al** discloses the claimed method of claim 4. **Li et al** discloses other computers on a LAN attached to the Internet access device are allowed to be configured and various application and services can be automatically configured (see also column 15, line 55 through column 16, line 20); **Li et al** discloses providing self-maintenance automated back-ups of any user data to any workstation on the LAN (column 8, line 35 through column 9, line 17; and column 18, lines 1-15). Examiner takes official notice that migration of computer resources in a LAN system is well known in the art where more than one computer device or system may be automatically modified based at least in part of assessment of computer resources. US Patent 6,182,212 to Atkins et al discloses automating migration of user settings from an existing computer to a replacement computer system in response to user input so that the new system is enabled to perform the same task as the old system (see abstract and column 1). It would have been obvious to one skilled in the art to send information from one computer system or any workstation device to the upgrade service to migrate and/or modify resources in several workstations of an Intranet or a LAN system as suggested by Li et al. One skilled in the art would have been motivated to do so by the suggestions provided by Atkins et al as to enable the new system to perform the same task as the old system and by the suggestions provided by Li et al as to provide self-maintenance, automated back-ups of any user data to any workstation on the LAN where a customer is not required to enter information nor to modify or configure the device in any way (column 8, line 35 through column 9, line 17 and column 15, line 1-10). These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claims 6, 7, and 22, **Stupek, Jr. et al** discloses the limitation of selectively updating certain computing system resources based, at least in part, on the comparison of the assessed computing system resources against authorized and available computing system resources, for example (see column 3, line 52 through column 4, line 45 see also figures 5A-5C with appropriate description). Claim 7 recites similar limitation as claim 1 except for replacing the computing system by a communications device and is rejected on the same rationale. These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claims 12 and 20, Stupek, Jr. et al discloses a server comprising: a storage device (7, 9) having stored therein a plurality of executable instructions; and a control unit (10), coupled to the storage device (see figure 1).

As per claim 13-18, 21, and 26, these claims recite some of the limitations as discussed above in the rejection of claim 1, except for implemented some of the claimed limitation method in a server. As per claim 13, **Stupek, Jr. et al** discloses a server comprising: a storage device (7, 9) to maintain profile (MIB information) of personal resources including an application, available to authorized users (column 9-10 shows an embodiment where resources include application) and is missing from a computer system, it is understood that new resources, upgrades, new version of application disclosed in **Stupek, Jr. et al** are missing before installation as discussed also in claim 1 above. **Stupek, Jr. et al** further discloses, the profile includes identifiers associated with a computing system and/or computing system user, and an upgrade device (10) that meets the recitation of a configuration agent, coupled to the storage

device, that can perform the limitations as explained in claim 1 above (column 7, line 12-34 and column 3, line 52 through column 4, line 45). Claim 21 only discloses conduct an assessment of computing system resources upon receipt of an identifier associated with the computing system and/or computing system user, and to automatically download and install on the computing system an application not preinstalled on the computing system, the application being associated with the received identifier based, at least in part, on the assessment of computing system resources, which is broader than claim 1 and discussed above in claim 1. These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claim 19, Stupek, Jr. et al discloses the limitation of wherein the identifier is associated with a computing system and/or computing system user hardware and/or software resources, for example (see column 7, lines 10-35).

As per claim 23, Stupek, Jr. et al discloses a upgrade device (configuration agent) configures to interrogates the computing system upon receipt of the identifier to assess computing system resources, for example (see column 7, lines 10-35 and column 3, line 52 through column 4, line 45).

As per claim 24, Stupek, Jr. et al discloses the limitation of wherein the configuration agent discloses modifying computing system resources including downloading and automatically installing system resources on the computing system based, at least in part, on the assessed computing system resources that meets the recitation of modifying computing system resources

to include available and authorized resources based at least in part of the assessment (see column 7, lines 10-35 and column 3, line 52 through column 4, line 45).

As per claims 27-31, claims 27-31 contain some of the limitations of claim 1 except for implemented the claimed method into a system. **Stupek, Jr. et al** discloses a computing system (1) comprising a storage device (3) having stored thereon plurality of executable instructions, on-line service that meets the recitation of a network interface, communicatively coupling the computing system to a network (see column 3, lines 53-67); and a server manager that meets the recitation of a controller coupled to the storage device for executing instructions, making assessment and implementing basic input/output system for making configuration request of resources that that need to be upgraded including resources of the computing system 1 and client computers, (see column 3, line 18 through column 4, line 45 and figures 1-3). These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claims 32-34, claims 32-34 recite similar but broader limitations than claim 1. Claim 32 only discloses configuration request and response and automatic downloading and installing resources including an application not pre-installed based in part on an assessment upon receiving an identifier, the combination of Stupek, Jr. et al and Li et al discloses at least automatic configuration of new resources (see Stupek, Jr. et al, abstract) and automatically updating resources including application not pre-installed as discussed above in claim 1. Therefore these claims are rejected on the same rationale as the rejection of claim 1 above.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cc

Carl Colin
Patent Examiner
April 28, 2006

CHRISTOPHER REVAK
PRIMARY EXAMINER
4/30/06